



Novemb. 3. 1640.

To the Honourable, the Knights, Citizens,  
and Burgeses of the Commons House  
of PARLIAMENT,

*The humble Petition of Peter Smart, a poore  
prisoner in the Kings Bench,*

Humbly sheweth,

**T** Hat after the death of Bishop *James*, Bi-  
shop *Neale* coming to the See of *Dur-*  
*ham*, the then Deane and Prebendaries  
of that Cathedrall Church cast the  
Communion-Table out of the same  
Church, and erected an high Altar at  
the East end of the Quire, of Marble  
stones, with a carved screen most gloriously painted and gild-  
ed, which cost about two hundred pound.

2 And they bought for forty shillings one Cope found in a  
search for Masse-Priests, embroydered with the image of the  
Trinity, and other Images; and another Cope which cost  
about ten groats, which had beene a long time used by the  
Youth of *Durham* in their Sports and May-games: a very

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fooles

fooles coat, both which Copes they used at the Administration of the holy Communion at their Altar.

3 To which Altar themselves both did, and forced others to use most unreasonable frequent bowing.

4 D *Cosin* officiated thereat with his face toward the East, and back toward the people.

5 They (the Deane and Prebendaries) did likewise take away the Morning Prayer, to which about two hundred persons did usually resort, used for the space of about sixty yeares in the Cathedrall Church of *Durham*, as in all other Cathedrall and Collegiate Churches in *England*, to be read at six a clock plainly and distinctly in a peculiar place appointed for that purpose by Commissioners under the great Seale of *England*, *Septemb. 25. primo Eliz.*

6 And instead thereof altered the same into singing with Instruments, without reading any Chapters or Psalmes at the ordinary ten a clock Prayer.

7 They did likewise set up fifty three glorious Images and pictures over the Bishops Throne, and about the Quire in the said Church.

8 And they burnt two hundred waxe candles in one Candelmas night in honour of our Lady.

9 They brought in sundry other superstitious and unwarrantable observations into that Church.

10 To the observation whereof they forced divers, and publickly brawled in the time of Divine Service in the Church with others, who would not observe the same; calling them lazie sowes, and dirty whores, tearing some gentlewomens apparell; calling them Pagans, and thrusting them out of the Church, who refused to obey them therein: for which violent, turbulent demeanour D. *Cosin* was twice indicted at the Quarter-Sessions holden at *Durham*.

11 Some of them preached in a Cope and late to heare Divine Service in a Cope in the said Cathedrall Church.

12 And others of them, viz. D. Cofin, preaching in the said Church upon the Parable of the tares, delivered this doctrine, *That the reformers of the Church, when they tooke away the Masse, took away or mar'd all Religion; and the whole Service of God; And that it was a deformation indeed, though they called it a reformation.*

13 And he, the said D. Cofin, publicly maintained, *that the Kings Majesty is not supreme Head of the Church in England, nor could be so called, for that he had no more power to meddle in Ecclesiasticall matters then the fellow that rubs his horses heeles;* for which he was indicted Anno 1629. at the Assizes at Durham, and found guilty thereof by the oathes of three men of worth: which indictment remaines yet untraversed.

14 Your Petitioner being a senior Prebendary of that Church, and one of His Majesties High Commissioners for Causes Ecclesiasticall in the Province of York, and in judgment and practice punctually conformable to the Doctrine and Discipline established in the Church of England, opposed the same innovations, and doctrines, according to his place and calling.

15 But not prevailing therein, he in July 27. 1628. according to the third Injunction, preached in the said Church, against the said Innovations; for which Sermon he was presently convented before the High-Commission holden at Durham, and before any Articles exhibited against him, suspended, and his living sequestred. And after his answer upon oath to the Articles, and sixe moneths detention in the said High-Commission, where he was proceeded against with all rigour and extremity, according to the expresse command

(as some of the High Commissioners in open Court said) of some Bishops in *London*.

16 He was served with a Warrant under the High Commission Seale for the Province of *Canterbury*, and hands of *William L. Bishop of London*, *Samuel L. Bishop of Norwich*, *D. Casar*, and *D. Sammes*, to appeare before the High Commission holden at *London*, and there forced againe to take his Oath *Ex Officio*, and to attend above a quarter of a yeere for Articles, which were pretended to be matters of high nature against him.

17 And was afterward remanded without any Articles to *Yorke*, where in August 1630. they proceeded to sentence *ex parte*, having denied your Petitioner a Commission to examine witnesses on his behalfe: where he was excommunicated, degraded, fined seven hundred pound, and imprisoned, for opposing and preaching against the said Doctrines and superstitious Innovations.

81 Notwithstanding that, *D. Cosin*, and one *M. Burgoyne* were indicted in August, 1629. at *Durham Assizes* upon severall Bills, and found guilty thereof, which remaine likewise untraverfed; this legall conviction notwithstanding, the said *D. Cosin* since is made one of His Majesties Chaplains in Ordinary, admitted to his Degree of Doctor, Master of *Peter-House* in *Cambridge*, and Vice-Chancellour of *Cambridge*, also Dean of *Peterborough* (beside foure great livings he had before) and all proceedings upon the former indictments against him stopped.

19 That your Petitioner was two severall times imprisoned at *Yorke* before their said sentence, for which injurious imprisonment he commenced his action at law against some of the said high Commissioners, and obtained Judgment thereupon,



thereupon, and sixe hundred pound damages, yet cannot have any fruit thereof.

20 That your Petitioner petitioned, and preferred Articles into the High Commission in *London* against the said Dean and Prebendaries for the said Doctrines, and Innovations, profering to give good security to prove all the said Articles: But the said Petition and Articles were utterly rejected by the said Court, who said, they would not suffer such worthy men to be questioned.

21 That your Petitioner hath been kept in prison upon the said sentence in great penury and want almost ten yeares, and lost both his dignity, and Parsonage, and whole estate, whereby he, his wife and children are utterly ruined in their persons, posterity, and fortunes.

22 That your Petitioner is now, and hath been above twelve moneths close prisoner, and His Majesties most gracious Reference in his behalfe unto the now Lord Bishop of *Durham* revoked; upon pretence that he was lately at *Glasgow* in *Scotland*, preaching and instigating the Scots against Episcopall government; whereas he was never at *Glasgow* in his life, nor in *Scotland* these twenty four years past: nor had directly nor indirectly any intelligence with the Scots.

23 In tender commiseration whereof, your Petitioner most humbly beseecheth your serious consideration, both of his miserable distressed condition, and great oppressions: as also of the said Innovations and offences of the said D. *Cosin*, and the other Prebendaries of *Durham*, with their abettors, who persecuted and censured your Petitioner: And to take such course, both for your poore Petitioners releife and release; As also for reformation of the said Doctrines, Innovations, and proceedings, and prevention of the like hereafter, as to your great wisdomes shall seeme meet.

And

And for that your Petitioner is much decayed in his health, by reason of his late restraint, and very poore: he humbly beseecheth you presently to give order for his release from his close imprisonment, and that he may have present Execution upon the said Judgment for the said sixe hundred pounds, whereby he shall be enabled to prosecute and prove this his most just complaint against all his adversaries. And your Petitioner shall pray, &c.



*A Speech made before the Lords by M. Francis Rous Esquire, March 16. 1640.*

Against D. COSIN, and many others impeached by the House of Commons in *M. Smarts* Cause.

My Lords,

**I** Am commanded by the House of Commons, to present to your Lordships a Declaration and impeachment against D. Cosin and others, upon the complaint of M. Peter Smart, which M. Smart was a Protomartyr, or first Confessour of note in the last dayes of persecution.

The whole matter is a tree, whereof the branches and fruit are manifest in the Articles of this Declaration, which being read, I shall (with your Lordships favour) discover and lay open the root.

The Declaration was read, consisting of eighteen Articles delivered to the Lords in writing.

The

The Commons Declaration and Impeachment upon the Complaint of *Peter Smart* Clerk, late Prebendary of *Durham*, against *Iohn Cofin*, Doctor in Divinity, *Ferdinando Morecroft*, *George Morecroft*, *William James*, *Iohn Robson*, *Gabriel Clerke*, *Eleazer Duncum*, and *Thomas Cagge*, Prebendaries of *Durham*: and against *William Lawd* Archbishop of *Canterbury*, *Sir Charles Caesar*, *Sir Iohn Lamb*, *William Sammes*, *Edmund Pepe*, *D. Aylott*, High Commissioners of the Province of *Canterbury*: and against *Iohn Scott* Dean of *Torke*, *Phinees Hodshon*, *Henry Wickham*, *George Stanhope*, Prebendaries of *Torke*, *Sir George Radcliffe*, *William Easdale*, *Iohn Bramhall* now Bishop of *Derry* in *Ireland*, *Richard Perrott*, *Edmund Kay*, *Richard Marsh*, *Timothy Thriscross*, *Robert Faucon*, *Henry Thriscross*, *Iohn Lively*, *Tho. Burwell*, High Commissioners of the Province of *Torke*, and *Roger Blanchard*, Pursevant to the said High-Commission, and against *Sir Francis Windebanke*, for severall crimes and misdemeanours.

*The Impeachment.*

I **T**HAT after the death of *D. James* late Bishop of *Durham*, *D. Neale* succeeding him in that Bishoprick, during the time he was Bishop, the said *D. Cofin*, *Ferd. Morecroft*, *George Morecroft*, *William James*, *Iohn Robson*, *Gabriel Clerke*, together with *Richard Hunt* late Deane, and others late Prebendaries of *Durham*, took away the Communion Table of that Cathedrall Church, and erected an Altar of Marble stones set upon columns, with many Cherubims thereupon, and a carved screen curiously painted and gilded set over the same. Which Altar, Copes, Organs, Images, Pictures, with other furniture, and unlawfull alterations in the said Church cost the said Deane and Chapter above two thousand pound.

To which Altar thus set up were frequent bowing, which bowing did increase after *D. Cofin* came to be Prebend there, few going or coming into the said Church without low obeysance:  
And

and D. *Cofin* did officiate at the said Altar with his face toward the East, and back toward the people, at the time of the Administration of the holy Communion.

2 That the said Dean and Prebendaries bought one Cope found in a search for Masse-Priests, whereupon was imbroydered the image of the Trinity: *viz.* an old mans face, a crucifix, and a dove; and other two Copes, one having a crucifix upon it, which because they were short, they cut and made into one, whereby the crucifix fell upon the hinder part of him that bare it. And another Cope which cost about two hundred pound, which Copes they frequently used at the Administration of the holy Communion at the said Altar, some of them preaching in a Cope, and sitting to hear Service in a Cope in the said Church.

3 That the said Deane and Prebendaries did also bring in and practise in the said Church sundry innovations in divine Service, both in time, place and manner, changing the Morning Prayer, to which about two hundred persons usually resorted, used for the space of sixty yeares in the Cathedrall Church of *Durham*, to be read at six a clock plainly and distinctly in a peculiar place appointed for that purpose by Commissioners under the great Seal of *England*, *Septemb. 25. primo Eliz.* into solemne Service and singing, both instrumentall and vocall, whereby it was brought into so late an houre, that some who formerly frequented the old Morning Prayer, could not attend this. And Judge *Hutton* in particular complained, that the longnesse and latenesse of it was inconsistent with publike employments. And afterwards they took the old Morning Prayer quite away for divers yeares, and instead thereof divided the ordinary Morning Service, making two of one, whereby there were neither Chapters nor Psalmes read at ten a clock Prayer.

4 That the said Dean and Prebendaries set up and renewed many gorgeous images and pictures, three whereof were statues of

of stone, one of which standing in the middest, represented the picture of Christ, with a golden beard, a blew cap, and Sun-  
rayes upon his head.

5 That the said Dean and Prebendaries did use an excessive number of candles: more upon a Saints day, then upon the Lords day; And caused the same candles to be lighted in the said Church, in a new, strange and superstitious manner, burning two hundred wax candles in one Candlemas night, whereof there were about sixty upon and about the Altar, where there was no use of light, nor Service then said: whereupon a Popish Priest spake, let us Papists resort to the said Church, to see how *D. Cosin*, and the Prebendaries of *Durham* doe play our apes. *D. Cosin* set up some of these candles himself, and caused others with ladders to set up more round about the Quire, some of which the said Dean sent his servant to take down; but *D. Cosin* did struggle with him in time of prayer, to the great disturbance of the congregation: the manner of lighting the candles was this; they caused two Choristers, in their Surplices to come from the West end of the Quire, with lighted torches in their hands, who after sundry bowings by the way, to and at the Altar, did light the candles upon the same with their torches: which done, they returned backward with many bowings, their faces toward the Altar, till they came to the Quire doore: which ceremony of lighting the excessive number of candles came into the said Church after *D. Cosin* was Prebendary.

6 That the said Dean and Prebendaries did absolutely forbid and prohibit the Psalms in Meeter to be sung before and after Sermon, and at the Administration of the holy Communion: and instead thereof turned prayers and peeces of reading Psalmes into Anthems and caused them to be sung, so that the people understood not whether they were prayers or no. Whereupon *D. Cosin* observing that they kneeled not, sent Vergerers to some to command them, and spake to others himself, saying, *Masters you must kneele, it is a prayer, you must kneele.* And they caused

an Anthem to be sung which was not the Word of God; as namely the three Kings of *Cullen*: *Jaspar*, *Melchior*, and *Balthazar*, and caused the Organs to play, and the whole Quire to sing, at the Administration of both the Sacraments; to the great disturbance of those holy Actions.

7 That the said Deane and Prebendaries caused many pictures, and carved Images (besides those that were in the said Church) to be set upon the Font, amongst which was a Dove carved, and the foure Evangelists, and *John* baptizing *Christ* in *Jordan* painted; which did appeare at the opening of the Font: which Font they caused to be removed from the ancient usuall place in the Quire, where it formerly stood; and placed it out of the Quire, where divine Service is never read.

8 That the said Dean and Prebendaries did cause a knife to be kept in the Vestrey for cutting of the Sacramentall bread, being appropriated only for that use: And was commonly called, knowne, and shewed to those who came to see the gay ornaments of the Church, by the name of the consecrated knife. And *D.Cosin* did consecrate the cushions and forms by crossing them, before the people came to the Communion.

9 That the said Dean and Prebendaries did imploy a Painter, and Glasier (profest Papists) to serve the said Cathedrall Church in their severall uses: and brought in, and practised in the said Church severall other superstitious Innovations tending to Idolatry.

10 That *D.Cosin* preaching in the said Church upon the parable of the tares, said, *That the reformers of our Church, when they tooke away the Masse, tooke away or mar'd all religion, and the whole service of God: they called it a reformation, but it was indeed a deformation*: And that the Masse was not so taken away, but that the presence of *Christ* still remaineth; and that if the reformation were otherwise, it were not a reformed but a deformed religion. And that he meant of a corporall presence was plain, for that he complained afterward in the said Sermon, that some had thrust  
out



out the presence of Christ : and he likewise said, that in *Q. Elizabeths* time when Popery was put out, the reformation was a deformation, and instead of bringing in order, they brought in ordure.

11 That *D. Cofin* perswading a Papist to come to Church, said, that the Body of Christ was substantially and really in the Sacrament : and shewing him the new Service-Book intended for *Scotland*, he said, it was all one with theirs of the Romish Church, for there was in it, the *Introit*, the *Epistle*, *Gospel*, *Offertory*, *Canon*, *Consecration*, *Communion* & *Post-Communion*.

12 That *D. Cofin* at a publique dinner said, That the King was not supreme Head of the Church in *England*, nor could be so called; for which, and introducing and practising of severall the said Ceremonies, he was indicted at the general Assizes in *Durham*, 1629. and *Billa vera* returned, & spoke other scandalous, scornfull and malicious words against His Majesties supremacy.

13 That these innovations in the Communion-Table, Font, Candles, Pictures, Images, Copes, Singing, Vestments, Gestures, Prayers, Doctrines, and speeches of the said *Cofin*; & the other alterations being unlawfully introduced, & practised in the said Cathedrall Church by the said Dean & Prebends, *Peter Smart* one of the Prebends aforesaid, opposed the same, and in discharge of his duty, place and calling did upon July 27. 1628. being the Lords day, preach in the said Church against the same, reproving these innovations, & innovators, & exhorted the people to keep themselves from the infections of them, in which Sermon there was nothing scandalous, nor disagreeable to the Word of God, the Doctrine and Discipline of the Church of *England*.

14 That notwithstanding the said *D. Cofin*, both upon *M. Smarts* reading his Text, and going on in his Sermon suitable thereunto : very turbulently demeaned himselfe in the said Church ; and the Sermon being ended, *M. Smarts* troubles began, for there was not one day set betweene his preaching and his punishment, for the said *D. Cofin* and *William James*, together with others since deceased, the same Lords day did send a Warrant in the nature of an Attachment, under the high-Commission seale for that Province, by two Purservants, to convent him before them : whereupon he personally appeared, and delivered to them the imperfect notes of his Sermon, which were sealed up, and he ordered to attend the next day, that the same might be truly copied out as he preached them, and as he should deliver them upon oath, and be bound in a Recognizance of 100. pound to appeare before them upon a days warning : but the said Dean and Prebendaries contrary to their order, did break up the seales, and wrote out severall copies of the imperfect notes, and sent them to *London* to severall Bishops. And the same day *D. Cofin* asked the advice of a Counsellour, whether he might not break open *M. Smarts* doors to search for papers, adding this reason, because

the Lords of the Countsell did so. And afterward the said Dean and Prebendaries, with *John Lively* and *D. Easdel*, were informers, prosecutors and Judges for six moneths against the said *Peter Smart* at *Durham* for the same, where they censured him by two Acts of Sequestration, and one of Suspension, and kept him *ex officio* in continuall personal attendance under great bonds, and paines of excommunication about foure moneths before there were any Articles exhibited against him; and five moneths before any Proctor was allowed him, and after he had there answered Articles upon oath, and six moneths detention before them; they caused a Warrant under the High-Commission Seal for the Province of *Canterbury*, and hands of *William Lawd Bishop of London*, *Samuel Harsnet Bishop of Norwich*, *D. Caesar* and *D. Sammes*, to be served upon him for his appearance at *London*; and afterward by Act in Court unlawfully transmitted him to *London*, to answer in the High Commission there for the same cause.

That the 12. of February 1628. *M. Smart* appearing at *London* before *William* then Bishop of *London*, now Archbishop of *Canterbury*, *Sir John Lamb*, *Edm. Pope*, *W. Sammes* and *D. Aleif*, together with others deceased, they forced him to take the oath *ex officio* again, to answer Articles, which the said Archbishop said were matters of high nature against him, and ordered him to be examined thereupon before his departure out of *London*; and to be proceeded against *ex officio*, because the said Dean and Prebendaries had recommended the cause thither: according to which order *M. Smart* attended severall times upon the Register of the said High-Commission to answer, but could never get any Articles. And the said 23. of Aprill 1629. the said Archbishop, Bishop of *Ely*, and others did transmit him and the cause, with all the letters and complaints of the said Dean and Prebendaries against him unto *York* unto the High-Commission there without any allowance of charges for his unjust vexation at *London*; because he was convented thither, and proceeded against upon complaint of the said Dean and Prebendaries, and refused to admit of *M. Smart's* Articles against them, although he offered sufficient bond of a thousand pound to prove the same, saying, they would not suffer such worthy men to be questioned.

15. That the 20 of June, *Samuel* then Arch-Bishop of *York*, Doctor *Hodgson*, and others, sent a Warrant under the High-Commission Seale for that Province, to convent him before them at *York*: And upon his appearance forced him to take the Oath *ex Officio* to answer Articles, and afterward unlawfully fined him five hundred pound by intimation, and certified the same into the Exchequer, and in November following committed him unlawfully to prison, and in December, committed him againe, and forced him again to take a fourth oath *ex Officio*, to answer Articles Ad-ditionalls,

ditionalls, and continued him in vexatious attendance before them under great bonds untill the third of August 1630. when they proceeded to sentence *ex parte*: having sundry times before denied him a commission to examine witnesses on his behalfe, interrupted his counsell, and suffered not the Breef of his defence to be read; And made many bitter invective speeches against him, and decreed that he should make a Recantation, *conceptis verbis*, as it should be delivered to him in three severall places, in *York*, and *Durham*, to be suspended totally *ab officio*, fined 400 pound, condemned in costs of suit, and committed to prison.

16 That the second of September following, they excommunicated him. November the 10 sequestred all his Ecclesiasticall livings, and Novemb. 18. they degraded him, *ab omni gradu & dignitate clericali*, because he did not recant, and pay costs: by colour of which degradation, his Prebendship, which Doctor *Carre* hath most injuriously ever since enjoyed, and Parsonage were both taken from him, and he ever since hath been kept in prison, and layen under all the said severall censures, and indured divers other unconscionable, and unjust Acts and proceedings, both at *Durham*, *London*, and *York*; By which heavy and unjust oppressions, his life hath been severall times evidently endangered, and he and his children, lost and spent above 14000 pound of real estate, whereby they are utterly undone.

17 That M. *Smart Pasch. 5. Car. Reg.* brought an action of false imprisonment in the Kings Bench, against D. *Hodgson*, D. *Easdale*, and *Roger Blanchard* their Pursevant, for their said two unjust commitments before their sentence, and after seven Termes spent in delays, and severall peremptory orders for them to plead, he obtained judgment upon a *nihil dicit*, and 600 pound damages upon a writ of Enquiry, which was returned into the said Court; And by the then Judges over-ruled, and M. *Smart* ordered to accept a long and frivolous plea contrary to the opinion of Judge *Crook*; to which plea he demurred, but could not get it argued, whereby he never received any benefit or profit thereof.

18 That in July 1638 M. *Smart* having obtained his Majesties most gracious reference in his behalf, unto the now Bishop of *Durham*, Secretary *Windebank* did revoke the same, by his Letter to the said Bishop; who upon receipt thereof, sent two Pursevants with a warrant under the High Commission seal for that Province, signed by himself, *Thomas Burwell*, and others; whereby he was apprehended, and caried prisoner unto *Durham*, where he remained prisoner above six weekes: And from thence brought him prisoner in a cart to *London*, to the said Secretary, who remanded him prisoner to the Kings Bench; and about two dayes after, by the said Secretaries command was taken out of his own chamber, and put into the com-

mon prison, where he remained about a moneth, and sixteen weekes more close prisoner, in his own chamber, upon pretence that he had been at *Glasgow* in *Scotland*, preaching and instigating the Scotts against Episcopall Government : whereas he was never in *Glasgow* in his life, nor had directly nor indirectly any intelligence with the Scotts. Upon which his said imprisonment, he severall times petitioned the said Secretary, Lord Bishop, Archbishop, and his Majesty, but could never get any release or examination thereof ; All which he hath, and is still ready to prove ; by which unjust, cruell, and illegall Acts, and proceedings, of the said Bishop, Dean and Chapter of *Durham*, and the said high Commission of *London* and *York*, religion hath been mightily scandalized, the Church polluted, Iustice perverted, the lawes Ecclesiasticall and Temporall, and the lawfull liberty of the Subjects of this kingdome violated and infringed : And the said *Peter Smart*, his wife children and family most unjustly and unchristianly undone, and ruined, to the great dishonour of God, maintenance of injustice, and pernicious example to posterity.

All which said matters and things, the Commons do transmit to your Lordships ; and impeach all the said parties delinquent, to the end that they may be called to answer their severall crimes, and receive such condigne punishment : And *M. Smart* such reparations joyntly and severally from them all both for the said losses, and also for his damage hereby sustained, and that he be restored to his Ecclesiasticall dignity, and living : and all the said sentences, and proceedings may be declared to be illegall and unjust. And that such further proceedings, examinations, tryalls and judgments be upon every of them had, and used, as is agreeable to law and Justice.

*As soon as this Declaration was read to the Lords,  
M. Rous proceeded thus.*

My Lords,

**I** Am now to discover the root of *M. Smarts* persecution : Your Lordships have heard of a great designe to bring in Popery : you have heard of armies of souldiers, and particularly of the Popish Irish Army, the burden and complaint of the Commons : but there is another Army not so much spoken of, and that is an Army of Priests : for since Altars came in (so they delight to be called) it is a saying of Gregory the great, that when Antichrist is come, *Præparatus est exercitus Sacerdotum*, there is an Army of Priests ready to receive him : this is fulfilled in

our time, for certainly this Army of Priests doth many wayes advance the designe and plot of Popery.

A first is, by the subversion of our laws and government : our Laws and Popery cannot stand together, but either Popery must overthrow our Lawes, or our Lawes must overthrow Popery : but to overthrow our Lawes, they must overthrow Parliaments : and to overthrow Parliaments, they must overthrow property : they must bring the Subjects goods to be arbitrarily disposed, that so there may be no need of Parliaments. This hath been done by D.Manwaring (whom we finde wanting yet not in the seats, but at the Barre of the Lords House) and the like by D.Beale, and I think it was the intent of the late Canons.

A second way, by which this Army of Priests advanceth this Popish designe, is the way of treaty : this hath been acted both by writings and conference : Sancta Clara himselfe saith, Doctissimi eorum quibuscunque egi : so it seems they have had conference together : and Sancta Clara on his part labours to bring the Articles of our Church to Popery, and some of our side labour to meet him in the way : we have a testimony that the great Arch-Priest himselfe hath said, It were no hard matter to make a reconciliation if a wise man had the handling of it. But I verily believe, as the state of Papacy stands, a farre wiser man then he cannot reconcile us without the losse of our Religion : for the Pope being fastened to his errors, even by his chaire of inerrability, he sits still unmoved, and so we cannot meet, except we come wholly to him. A man standing in a boat tied to a rock, when he drawes the rope, doth not draw the rock to the boat, but the boat to the rock. And Sancta Clara doth (in this somewhat honestly) confesse it : for he saith he dealt in this way of treaty, not to draw the Church to the Protestants, but the Protestants to the Church.

A third way is a way of violence : this violence they exercise, partly by secular Arms, and partly by Priestly Armes, which they call spirituall : for secular armes, we have their own confession, that the late warre was Bellum Episcopale : and we have the Papiests confession, that it was Bellum Papale : for in their motives they say, that the warre concernes them not only as subjects, but as Catholikes : for so they falsly call themselves :



selves : and if it be so, then *bellum episcopale* is also *bellum papale* : in the Episcopall warre the Papall cause is advanced : for the spirituall Armes, thus they come to execution. When a great man is coming, his sumpters, his furniture, his provisions go before : the Popes furniture, Altars and Copes, Pictures and Images are come before : and if we believe D. Cofin, the very substance of the Masse : a certain signe that the Pope was not farre off. Now these fore-runners being come, if any man resist them, fire comes out of the brambles, and devoures the Cedars of Libanus : the Army of Priests falls upon him with their armes of Suspension, Sequestration, Excommunication, Degradation and Deprivation. And by these armes hath M. Smart been oppressed and undone : he falls upon their superstitions and innovations, and they fall upon him with their armes : they beat him down, yea they pull him up by the roots, taking away all his means of maintenance and living, yet they leave him life to feel his miseries : Ita feriunt ut diu se sentiat mori, there is no cruelty to priestly cruelty : these are they that did put our very Saviour to death : the calling is reverend, but the corruption is most pernicious : *Corruptio optimi pessima* : I know no reason of this change, except it be that of the Apostle, because when they knew God, they did not worship him as God, but made a god of this world, placing the excellency of Priesthood in worldly pomp and greatnesse : and gave the glory of the invisible God to pictures, images and altars : therefore God gave them up to vile affections, to be implacable, unmercifull, and without naturall affection. But whatsoever the cause is of their corruption, certainly their crimes have fallen heavy upon M. Smart, and priestly cruelty hath cast him into a long misery, from which he could get no release by any priestly mercy.

And now it is prayed, that as these delinquents by the cruell oppressions of M. Smart have advanced the cause of Popery, so they may in such a degree of justice be punished, that in them priestly cruelty, and the very cause of Popery may appeare to be punished and suppressed : And that M. Smart, suffering for the cause of Protestancy, may be so repaired, that in him pious constancy, and the very cause of Protestancy may appeare to be righted and repaired.



Articles of the Impeachment proved upon oath before the Lords, delivered in writing by *Nicholas Hobson* and *Robert King*, subscribed by *Sir Robert Rich*, and remaining upon Record.

**N**icholas Hobson singing man of the Cathedrall Church of Durham, aged 92. yeares or thereabouts, maketh oath that the Examination hereunto annexed, dated May 14. 1642. being unto ten Articles of the Impeachment of the honourable House of Commons, against Doctor Cosins and others on Master Smarts behalfe, and all of them subscribed by and with the proper handwriting of him this deponent, without any favour or affection to either side, is the whole truth and nothing but the truth, and according to the Articles of the said Impeachment.

Jur. 12. die Junii 1642.  
Ro. Rich.

The Answer and Examination of *Nicholas Hobson* singing man of the Cathedrall Church of Durham aged about 92. yeares the fourteenth of May, 1642.

**W**Hereas I *Nicholas Hobson* was by vertue of a Warrant from the right honourable the Lords in Parliament assembled, summoned to appeare to attest my knowledge for the prooffe of the Impeachment against Doctor *Cosins*, and others on M. *Smarts* behalfe, depending before their Lordships; I having attended now above these seven months, and not able in respect of my age and infirmities to contine my attendance any longer have set downe this my answer

*Richard I. King* to

to every Article in the Impeachment, upon my oath under my hand as followeth.

Art. 1.

To the first Article I say, that after the death of Bishop *James*, Doctor *Neale* comming to be Bishop of Durham, the Communion Table was taken away, and a stone Altar (commonly so called) set up at the East-end of the Chancel on Columnes with many Cherubins thereon, and a carved skreene curiously gilded by the then Deane and Prebendaries, to which Altar there was frequent bowings, which bowings did very much increase after D. *Cosins* came to be Prebend there. And I having beene a member of that Church about sixty yeeres before the erection of the said Altar, nor knew, saw, or heard of any bowings towards the Communion Table there, but after it was set up it hath beene continued with the bowings, Ceremonies, and other perquisites thereunto belonging, by the joynt consent and approbation of the Deane and Prebends of the said Church for the time being (*M. Smart* excepted) for ought I ever heard, onely D. *Cosins* was the most strictly, and violently Ceremonious of all the rest.

2.

To the second I say, That I very well remember the Cope mentioned in the Article, with the picture of the Trinity, which I have often seene worne and used in the said Church at Service, and the Sacrament of the Lords Supper; and as I remember it was brought into the said Church when *M. Ferdinando Morecroft* (mentioned in the Impeachment) was Treasurer thereof: And I have constantly and credibly heard, that this Cope was by command of the said Treasurer bought of one *Mistris Deereham* a Vintners wife in Durham: which Cope in regard of the scandall it gave *M. Smart* caused to be cut in pieces, and made cushions of it, for the use of the said Church, some whereof remained there at my comming from Durham in September last, as likewise the Cope mentioned in the Article with a Crucifixe on the hinder part of it. For the Cope which cost 200.l. I remember very well there was a very rich Cope made at Durham by the said Deane and Prebendaries, which was afterwards sent from thence by one of the Vergers to London for the Queenes Chappell, (as the report was) but what the certaine price of this Cope was I know not.

3.

To the third I say, That D. *Cosins* was the principall man that made the alteration mentioned in the morning Prayer, and a new solemne service to be sung at 6. of the clock in the morning, to which both my selfe and other Members of the said Church were compelled to come by

by D. *Cofins* and amerced by him with consent of the others for default therein, which for my owne part I was so afraid of, that my course being come to reade the first Lesson, I arose at twelve a clock one night (supposing it had chimed foure) and sate at the Church doore untill it was five, for which my long and weary watch D. *Cofins* had my prayers for the new tricks he had brought in amongst: But this alteration in Prayer and Service was allowed by the Deane and Prebends all; (save M. *Smart*, who to his utmost power constantly opposed the same.) And the old morning Prayer mentioned in the Article, which was constantly there alwaies used ever since I can remember, was quite taken away by them, and upon the divisions of the Matins there were neither Chapters nor Psalmes read at ten a clocke Prayer.

To a fourth I say; That there was about fifty pictures, and three statues of stone, formerly defaced and broken downe in the said Quire, which were by the expresse command of D. *Cofins*, renewed, painted, gilded, and set up about the Quire, and upon the Bishops throne, as is mentioned in the Article. 4.

To the fift I say, That there was an excessive and unusefull number of wax candles used in the said Church after D. *Cofins* came to be Prebend there, more being constantly burnt on Saints dayes then other dayes, and on Candlemas night mentioned, there was an extraordinary number of wax candles lighted up, many being set up where there was no use of lights, nor prayers then said, such as I never saw in my life at one time, though I have now beene a member of that Church about 80. years. And it seemed the more strange to me, because I never knew in D. *Pilkington*, M. *Rand*, D. *Colemore*, M. *Smart*, and the old Prebends times, above twenty or thirty at most lighted at one time in the said Church; and the rather because of the Ceremony used of late in lighting of the said Candles; for the Quire doores were shut to hinder the people for comming in while the Vergers, and others appointed to light the candles, did climbe on ladders, to set them up aloft, high in the Quire, the lighting of which candles, and other new things used in the said Church, was a great scandall and offence to well affected people in the Countrey, and incouragement to Papists and ill disposed persons, as I have severall times heard from divers with whom I have spoken since the beginning of these things. 5.

To the sixth I say, That for above thirteene or fourteene yeeres 6.

to every Article in the Impeachment, upon my oath under my hand as followeth.

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To a fourth I say; That there was about fifty pictures, and three statues of stone, formerly defaced and broken downe in the said Quire, which were by the expresse command of D. *Cofins*, renued, painted, gilded, and set up about the Quire, and upon the Bishops throne, as is mentioned in the Article. 4.

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To the sixth I say, That for above thirteene or fourteene yeeres 6.



last past, there were no Psalmes in the vulgar meeter tunes suffered to be sung by the Congregation as formerly before and after Sermons, and at the administration of the holy Communion in the said Cathedral Church, which was a mighty discontent to the people of Durham, and never omitted there till D. *Cosins* came; which omission still lasted untill September last 1641. when M. *Smart* being restored by the Parliament, caused them to be sung, and a Communion Table of wood to be placed in the body of the Quire as formerly, the said Altar and its golden skreens being quite taken away from thence: Instead of the said Psalmes, there were Anthems sung which the people understood not, and at a Fast about fiftene yeeres agoe D. *Cosins* commanded the Choisters and Singing men to come to Church in their habits, and the Organs to play the prayer after the Commination, &c. *Turne us O Lord.* &c. being turned into an Anthem was solemnly sung, so as I understood no more of it then mine owne part, and therefore verily beleeve that the people did not understand it; and the rather because Doctor *Cosins* did send Vergers to the people, to command them to kneele. As for the three Kings of Cullen, I have severall times sung my part thereof in the said Church among the rest of the Quire, and I have severall times knowne the Organs to play; and the Quire to sing at the administration of the Sacrament.

7 To the seventh I say, The Deane and Prebends there caused many pictures and Images to be set upon the Font, amongst the which the Deane caused a Pellican picking blood out of her breast to be carved, which D. *Cosins* tooke away, and caused a curious carved Dove hovering, there to be placed in representation of the holy Ghost, and the foure Evangelists, and *Iohn* Baptizing Christ in Jordan to be painted: The Font they caused to be removed out of the ancient place where it used to stand ever since I can remember, and upon the third and last removeall they placed it quite out of the Quire where Divine Service is never said.

8 To the eighth I say, That I doe not remember that I ever saw the consecrated Knife, but have often heard there was such a knife kept in the Vestry for cutting the sacramentall bread, which knife was brought into the Church after D. *Cosins* was Prebend.

9 To the ninth I say, That there was one *Browne* a convict Papist employed by D. *Cosins* for painting and glasing the said Church pictures and Statues, and that there were many new strange changes and things brought




brought into that Church in service and Ceremony after B. Neale came to be B. of Durham, the number and practise thereof did mightily increase there after D. Cosins came to be Prebend, for that he was a most active man in bringing in and urging them, yet the Deane and Prebends did approve and allow thereof, none ever hindring or resisting him, save only M. Smart, who continually opposed them.

To the tenth I say, That I doe very well remember that D. Cosins did preach a Sermon in Durham Church to the tenour and effect of this Article, but I cannot possibly remember the very expressions that he used, yet I perfectly remember that in the same Sermon he did say, That when Popery was put out the Reformation was a deformation, and instead of bringing in order, they brought in ordure.

*Nicholas Hobson.*



**N**icholas Hobson aged ninety yeares or thereabouts, saith, That he hath beene a member of the Cathedrall Church in Durham about seventy yeares, and that he very well knoweth, that it is the constant custome of the said Church, that upon the vacancy of any Living, in the donation of the said Deane and Chapter; that the senior Prebend Residentiary hath the election, whether he will accept first himselfe, or nominate any other to the Living vacant, in case none of the Prebends will accept thereof themselves, upon such his refusall: And this D. ponent saith, that he knoweth in right of this custome, and not by any favour of the said Chapter, that M. Rand first Prebend of the said Church, did upon the avoidance of Hecghington nominate one Christopher Lever Minister, and a meere stranger to the said Vicarage, who accordingly enjoyed the same during his life; and divers other Prebends of the said Church did also nominate either their children or friends constantly, according to the said custome. And D. Carre late Vicar of Akelisse comming to be Prebend of Durham in M. Smarts place, had the said Vicarage of Akelisse, being then void by the death of M. Ralph Richardson, according to the said custome in M. Smarts right, as Senior Prebend; without which the said D. Carre could not have got Akelisse.



Robert King of the City of Durham aged 46.yeaeres  
or thereabout, sworne and examined on the part and  
*behalse of Peter Smart Clerke.*

Art. 7.

**T**O the seventh Article he saith, that he well remembreth that there was divers pictures and carved Images set upon the Font, and that there was a Dove carved, and the foure Evangelists, and *John* baptizing Christ painted, which did appeare upon opening of the Font, and that the same was removed out of the Quire, and set up in places in the Church where never any service was said, and that the same was so done by the Deane and Prebends, or some of them, (Mr. *Smart* excepted) and that the charge thereof was allowed on at their Audit accounts.

8. To the eighth Article he saith, that he hath seen the Knife which was kept in the Vestry for cutting the sacramentall bread, and that he who shewed the same to strangers, did call it the consecrated knife, and that the haft of it was called an Aggat haft, and that he hath scene the same divers times.

9. To the ninth he saith, that one *Edward Browne* who is a convicted Recusant was employed for painting and glazing in the Church for divers yeeres, by the Deane and Prebends (onely *M. Smart* excepted.)

18. To the eighteenth he saith, that he hearing that *M. Smart* was in the custody of one *William Frysell* then a Pursivant to the high Commission, did goe to see him the said *M. Smart*, and did finde him so sick, that he was very sorry to see it, and was in great feare that he should have dyed there; and he further said, that he heard the said *Frysell* say divers times, that when he was brought upon his oath, he would shew that writing or warrant from the Bishop of Durham, and other Commissioners should free him, concerning the attaching of *M. Smart*.

He saith that *D. Carre* (late deceased) came to bee Prebend in *M. Smarts* place, hath had and received one yeare with another for his part of the yearly dividend, one hundred pounds, arising out of fines, and scales, overplus of rents, vacancies, increase of rents and casualties,  
and

and also he did receive the yearely stipend of 33*l.* 6*s.* 8*d.* during his life, as will appear by the Audit accompts in every yeare made by the severall officers, who keep the same in their own custodies, whereas they should remaine in the Exchequer within the Colledge of Durham, as formerly they have done.

He saith, that he doth well remember that there was a capitular Act made, that *William Smart* batchelor of Arts, son to *M. Peter Smart* should have the Registers office upon the yeilding up of the said place by *M. John Browne*, who then was Register to the Deane and Chapter of Durham, and that this examine did write the said Act, as may appear by the booke of Acts; and that the said place is worth one yeere with another fourescore pounds arising out of writing of Leases, Licenses, Patents, Presentations, Searches; And the Jurisdictions of Durham, Northumberland, and Howdenshire in the County of Yorke, and the stipend of five pounds yearely, and he knoweth the better how to depose herein, for that he was brought up as a Clerke in the said office for divers yeares.

He saith, that *M. Smarts* Corps at Wittingbert is worth yearly to be letten for ninety pounds as he hath credibly beene informed.

He saith, that the tenement called Vnderfide, is worth sixteene pounds *per annum*, being a part of the said Corps.

He saith, that the tenement called Newhouse in Akelisse Parish is worth forty pounds *per annum*, as he hath beene credibly informed, and that he verily beleeveth the same to bee no lesse worth, for that hee knoweth divers tenements of the like rent, that are let for more.

He saith, that the hay ground in Gilligate is worth three pounds ten shillings by yeare.

He saith, that Shaudforth tithe Corne is worth twelve pounds by yeare.

He saith, that the tithe Corn at South Pittington, (now in *D. Cefers* possession) the same belonging to *M. Smarts* Corps, is worth ten pounds *per annum*, and that the same hath been of late yeares of a greater value, as he hath beene credibly informed.

He saith, that he did write severall Arreares of rents into a booke, called the booke of Arreares, which did amount to about two thousand pounds, a good part whereof did belong to *M. Smart*, but how much was received thereof by the Prebends, and by them divided amongst themselves he knoweth not, but referreth the same to the receipts mentioned in the said booke.

*Robert King.*

October 30. 1641.

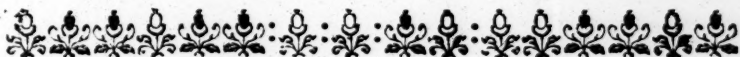
**R**obert King of the City of Durham Gent. aged forty six yeares or thereabouts, sworne, saith, That his Father was Register to the Deane and Chapter of Durham for many yeares, and this deponent hath beene a Clerke in the said Office for about seven and twenty yeares; and that thereby he very well knoweth, that it is the constant custome of the said Church, that upon the vacancy of any Living in the donation of the said Deane and Chapter, the Senior Prebend Residentiary hath the Election, whether he will accept thereof himselfe, or nominate any other to the said Living vacant, in case none of the Prebends will accept thereof themselves, upon such refusal: And this deponent saith, he knoweth that in right of the said Custome, and not by favour of the said Chapter, M. *Admiralke Blakestone* Prebend of the said Church, got the Vicarage of Allerton for his son *Thomas Blakestone*, who now enjoyeth the same, being worth two hundred and fifty pounds *per annum*, or thereabouts, as this deponent hath beene credibly informed; And M. *Ferdinando Moorecroft*, another of the Prebends, got Heighington worth about one hundred pounds *per annum*, after the death of M. *Lever*, and kept it till his son *James Moorecroft* was capable thereof, and then resigned it unto him, who now enjoyeth the same; M. *George Moorecroft*, another of the Prebends, got the Vicarage of Hessedon, worth about 100.l. *per annum*, and for his son *Edward Moorecroft*, who now enjoyeth the same: And divers other Prebends of the said Church, did nominate upon the avoidance of any Living, either their children or friends, according to the said custome, who accordingly enjoyed the same upon such nomination; and D. *Carre* late Vicar of Akelisse, comming to be Prebend of Durham in M. *Smarts* place, had the said Vicarage of Akelisse, being then void by the death of M. *Ralph Richardson*, according to the said custome in M. *Smarts* right as senior Prebend, without which the said D. *Carre* had never got Akelisse; as D. *Hunt* the late Deane of Durham told the deponent; And this deponent further saith, that he was present

feut when the order annexed was served upon all the said Tenants mentioned in the petition belonging to the said Prebend, and that he did reade the same unto them; and that since that time hee hath heard, and verily beleeveth by the relation of some who live thereabouts, that the said Tenants have refused to pay the money and deliver the possession to Mr. Smart as is alleaged in the Petition.

*Robert King.*

And this deponent further saith, That hee was present when the order was served upon *Richard Carre*, mentioned in the petition, who after reading thereof, said, That if the Tenants would pay in the money due, hee would secure and keepe them harmlesse, notwithstanding the said Order.

*Robert King.*



*Richard Hutcheson Singing-man and Organist of Durham, being sent for by the Parliament 1628, to beare witnesse of Innovations in the change of Services and Ceremonies, brought into that Cathedrall Church by the Deane and Chapter, of which D. Cosin was a principall agent in the said alterations; the Parliament being dissolved upon Tuesday the 16 of March, hee left this in writing, which he purposed to testifie upon his oath.*

*New orders and form of prayers in the Cathedrall Church  
of the City of Durham.*

**I**N former times, the six a clock prayers was read according to the Statutes in a convenient place, so that all Gentlemen and Tradesmen came to it, where they did reade and sing  
*Richard Smart & Thomas* Psalmes,

Psalms, every one understanding another, what was said or sung.

2. But afterward a controversie fell betwixt the Deane and M. *Cosin*, that the one will have it in the *Quire*, and the other in the old prayer stead, where formerly it hath been used.

3. But it was ordered betwixt them that Prayers should bee sung in the *Quire*, after the same forme, that we have our ten a clock service from the beginnins unto the ending, with two Lessons read.

4. And all the whole members to come in with their gowns and surplices,

5. But not halfe so many of the Town as did use when prayers were read as formerly have been used.

6. Then for our ten a clock Service we were commanded to begin with the ten Commandements, and with the Epistle and Gospel, Creed and Anthem, with the Collects after, and so an end, for Munday, Tuesday, Thursday and Saturday.

7. On Wednesday, Friday, and Sunday, to begin with the Letany, the ten Commandements, the Epistle and Gospel, Creed.

8. Then the Sermon, and after an Anthem, the Collect and an end.

9. So that before and after Sermons and Lectures we have had of late no Psalmes but all Anthems, and many of their ditties neither in the Bible nor Communion book.

11. And every Sunday two or three Copes worne.

12. And for the order of the Communion, when they come first to the Communion Table, at the entring of the door every one doth make a low congie to the Altar, and so takes their place.

13. And then the Priest goeth up to the Table, and there he makes a low congie.

14. Taketh



14. Taketh up the bason, and maketh a low congie.

15. He goeth to all the Communicants, the Quire excepted, and taketh the offerings in that bason, he goeth up to the Table, maketh a congie, and setteth down the bason.

16. Then he goeth to the end of the Table, and beginneth the exhortation, and goeth on, untill he commeth at *Lift up your hearts*, that he singeth, and the quire answereth, singing in strange tunes, so far as Priest and Answer goeth, then for the rest, one of the Priests reads some part of it at the end of the Table.

17. And another sitting on his knees at the middle of the Table, and after the prefaces the Priest begins, *Therefore with Angels and Archangels*, until he come to the three holies, and then the Quire singeth untill the end of that; so in order hee doth administer the Communion.

All these 17 are innovations, contrary to the book of Common prayer, Canons, Injunctions, Rubriques and customs, not onely of *Durham*, but all other Cathedrall and Collegiate Churches in *England*.



**B**Ecause it was long since the Petition to the Parliament was examined before the honourable Committee of the House of Commons, in January and February 1640, and by them the Impeachment of D. *Confin* and 30 others, presented to the House of Peers, M. *Francis Rous* delivering the same Mar. 16, 1640, and the Articles of the said impeachment were proved upon oath of sundry witnesses before the Lords, Anno 1641, in May, Iune, and Iuly, more then two yeares agoe, so that it is probable their Testimonies may be forgotten by reason of the

Great troubles which have since that time befallen this Church and Kingdome, therefore I thought good to set down their names that were sworne witnesses, and to what articles every one spake: But the best proofes are the Acts of the High Commission Courts at *Durham*, *London*, and *Yorke*, which are there kept upon record, & copies under the Registers hands we have here to shew.

Likewise the answers of the impeached Delinquents, and their confessions, which are in the custody of the Clercks of this Parliament, are strong proofes against themselves.

— To which I have added the testimonies of *Nicholas Hobson* singing man of *Durham*, aged 92, which had been a member of that Cathedrall Church 80 years, and of *Robert King* which had been brought up in the Registers office about 27 yeares, whose testimonies before the Lords upon their oaths, exhibited in writing, I have caused to be printed, with *Richard Hutchen-son* Organist, his testimony which he gave me in writing in the Parliament 1628, and in the beginning of this Parliament confessed to bee true before many witnesses; These three, I say, *Hobson*, *King*, and *Hutchen-son*, with the Acts of the Commission Courts, are sufficient to confirme all things that are delivered in the Petition and in the Impeachment.

The 14. first Articles were proved upon oath before the Lords, 13 of which we have over passed, & now come to the 5 last concerning Bishop *Laud* and the rest that convented Mr. *Smart* from *Durham* to *London* unlawfully, with his transmissi-on to *Yorke*, and his barbarous usage there, contained in the five last Articles of the impeachment.

The



**T**He fourteenth Article containeth in it twenty severall heads or clauses wherewith the House of Commons in their Impeachment, chargeth Doctor *Cosin* and other Commissioners of *Durham* and *London*, to have proceeded illegally against Mr. *Smart*: all which were proved by oath before the Lords in *May*, *June*, and *July*, 1641.

1 Doctor *Cosin* upon M. *Smarts* reading his text (*Psal* 31.7. *I hate them that hold of superstitious vanities*) and going on in his Sermon futable thereunto, very turbulently behaved himselfe in the Church.

1 Proved at large by the testimony of Mr. Ed. Wright, a Counsellor of Gray's Inne, viva voce, upon his oath before the Lords, and by the appointment of the House of Peers, delivered in writing under his hand, which remayns upon Record in the custody of Mr. Browne, the Clerk of Parliament.

2 They convented him the same day, being the Sabbath, presently after dinner before the Commission Court in the Deans house, by a Warrant to attach him, sent by two Pursuivants.

2 This is proved by the testimony of Mr. Edw. Wright, and by Acts of the Court that day, &c.

3 This their doing in many respects was illegal, especially because it is unlawfull to keep any Court on the Lords day, on which whatsoever is done is void, and punishable in them that doe it.

3 This the Law it self proveth to be true, and the confession of Doctor Easdel, one of the Impeached.

4 On which day hee was bound by Recognizance of an hundred

hundred pound, to appear before them upon a days warning.

4 *Proved by the Act of the Court, and Mr. Wrights testimony.*

5 They took the unperfect notes of his Sermon, and wrote out copies, which they sent to severall Bishops at London, Bishop *Laud*, Bishop *Neal*, and three others; perfidiously contrary to their promise, and perjuriously contrary to their oath, by which they are bound to complain to none but the Bishop of *Durham* their Visitor.

5 *This was proved by Mr. Wright, and other witnesses, and by the locall Statutes of Durham Church.*

The same Doctor *Cosin*, the Dean and Chapter, with Master *John Linely*, Bishops *Neals* Chaplain were Informers, Prosecutors, and Judges, inflicting grievous punishments upon Master *Smart*, for the space of six moneths, without any examination or tryall at all, only they said his faults were notorious, and therefore needed no proof.

6 *This is proved by the Acts of Court, and many witnesses, and their own confessions.*

7 In the Commission Court, and in their Chapter-house, they censured him with two acts of Sequestration, and one of Suspension, contrary to their locall Statutes, which they are bound by oath to observe.

7 *In these three Acts of Court they committed many notorious perjuries, especially three, for which they deserve to be deprived, and loose all their living: First in putting Mr. Smart into an externall Court of the high Commission, being charged to determine all controversies within the Chapter-house. Secondly, in not complaining to the Bishop their Visitor, but to Bishop *Laud* of London, and Bishop *Neal* of Winchester, which had nothing to doe in the Province of York: Thirdly, in suspending him from coming to Church in the midst of his Residence, at which time every Residentiary is bound by oath to come to Church 21 days without intermission: and every Prebendary*

*bendary is sworn to cause others to the utmost of their power to observe the Statutes, which maliciously they would not suffer M. Smart to keep.*

8 They kept him in continuall personall attendance, under great bonds. First, upon a days warning, then four days, then fourteen days to appeare before them, without any Articles to answer, or any particular fault laid to his charge, for which Mr. *Burgoin* gave this reason on the Bench; if we give him any longer time he will go to *London* to complain of us.

8 *This is proved by the Acts of Court.*

9 After the Oath *ex officio* taken, and Articles exhibited and answered, which should have been examined, and he quitted; they detained him in their Court two moneths longer. And Mr. *Burgoin* said, the Bishops bid them keepe him safely till they send for him to *London*: and that the King commanded them to prosecute against him with all rigour and extremity.

9 *See the Acts of the Court.*

10 They caused a Warrant, under the Commission Seal, and the hands of Bishop *Land*, Bishop *Harsnet*, Doctor *Sammes*, and Doctor *Cesar*, to be served upon him in *January*, to appear before them at *London*.

10 *Very unlawfully, for he was censured before at Durham: hee was of another Province, out of Bishop Lawds jurisdiction. Neither had he done any thing deserving punishment.*

11 By an Act of Court they unlawfully transmitted him to the Commission of *Canterbury* Province, which is a Court more externall than *Durham*, therefore their perjury was more notorious: *See the Statute.*

12 The 12 of February, Master *Smart* appearing before B. *Land*, and others; they forced him to take a second Oath *ex officio*, to answer Articles.

13 Which Bishop *Land* said were matters of high nature and,

and ordered him to be examined thereupon, before his departure from *London*.

14 And so proceeded against *ex officio*, because the Dean and Prebendaries of *Durham*, had commended the cause thither.

15 According to which Order Mr. *Smart* attended upon the Register foure moneths, but could never get the sight of Articles.

16 Then was he transmitted back againe by Bishop *Lawd*, B. *Neal* and others to the Commission at *York*.

17 With the cause and all the Letters, and calumniating complaints of the *Durhamers*.

18 Without any allowance of charges, as the Canons appoint: because he was convented, & proceeded against upon the complaint of the Dean and Prebendaries of *Durham*, which ought to make him satisfaction for that wrong, unlesse their complaints could be proved.

*All these last eight were proved before the Lords, by the Acts of Court, and many witnesses upon oath, whereby it appeareth how Mr. Smart was cast into the Whirpool of the High Commission, being their fellow Commissioner, by the malicious and treacherous Prebendaries of Durham, only for resisting and reprovving them for polluting the Church of Durham with superstitious Innovations and Idolatries, and how they wre assisted, and countenanced by Popish Arminian Priests and Prelats, especially these three, Bishop Neal, Bishop Lawd, and Bishop Harfnet, his Captain persecutors.*

19 Master *Smart* presented Articles against Doctor *Cosins*, Doctor *Linsell*, Master *Burgoin* and others, drawn and subscribed by Do. *Reves* the Kings Advocate, which Bishop *Lawd*, and B. *Neal*, with the rest at *Lambeth* refused to admit, though a thousand pound bond was offered to prove the same.

20 Bishop *Lawd* and B. *Neal* said, they would not suffer such worthy men to be questioned. Impudent Prelats, cruell oppressors,





5 They proceeded to sentence the third of *August 1630*, *ex parte*, having denied him a Commission to examine Witnesses on his behalf.

6 They interrupted his counsell, and suffered not the briefe of his defence to be read.

7 They made bitter Inveſtive speeches, and rayled upon him all ten Commissiones, especially *B. Harsnet*, Doctor *Hodgson*, *Wickham*, *Sanhope*, and *Marsh*: from eight a clock in the morning till three in the afternoon, as two Parliament men, Alderman *Atkinson*, and Alderman *Hoile* can witnesse.

8 They censured him, and ordered to make a recantation, *conceptu verbis*, in *York* and *Durham*: they fined him 400 pounds more, desired costs of the Court, and committed him to prison.

The first of these is proved, by Doctor *Hodgsons* confession in his answer to the Impeachment.

The 2, 3, 4, and 6 are proved by AAs of Court. So is the seventh.

The fifth by their confession.



### Article 16.

1 **T**hey excommunicated him 20 *September*, They sequestred the profits of his Prebend, and Benefice: They degraded him, *ab omni gradu, & dignitate clericali* the 18 of *November 1630*. AAs of the Court.

2 This degradation was verbal, and not *soleni forma*, therefore void, by the testimony of Doctor *Duck* under his hand.

3 Doctor *Carre* enjoyed 11 yeere the Prebend, and the Vicarage of *Aieliffe* belonging to Master *Smart*, worth 350 pound

*per*

*per annum*, as *vvas* proded upon oath by the testimony of *Nicholas Hobson*, pag. 21. and by *Robert King* pag. 24.

4 Master *Smart* hath continued prisoner by *B. Mortons* Warrant, and Secretary *Windebanks* command, ever since 1638 till 1641, proved by Sir *Iohn Lenthall* Marshal of the Kings Bench.

5 These and all other losses and troubles, have brought damages upon Master *Smart* & his children above 14000 pounds.

The particulars of these damages are most of them set dovvne in *Robert Kings* Answer, pag. 24, 25.



#### Article 17.

MAster *Smart* brought an Action of false imprisonment *Pascha 5 Caroli* in the Kings Bench against Doctor *Hodgson*, Doctor *Easdall*, and *Roger Blanchard* Pursuivant,

And after seven Terms delays, and severall Rules given, hee had a Iudgment at last upon a *nihil dicit*, and damages 600 li. But he vvas ordered to accept a long and a frivolous plea, contrary to Iudge *Crooks* opinion.

Master *Smart* demurred but could never get to have it argued, vvhereby he never received any benefit thereby.

This is proved by the Rules and Records of the Court.



#### Article 18.

1 IN July 1638 Master *Smart* having obtained his Majesties most gracious reference in his behalf unto the novv B. of *Durham*, Secretary *Windebanke* did revoke the same by his Letters

ters to the said Bishop. This is proved by the Letters vvhich the Bishop hath.

2 Who upon the receit thereof sent two Pursuivants vvith a Warrant under the High Commission Seale signed by himself, *Thomas Burwell* his Chancelour. and others ( at the same time hee vvvas prisoner in the Kings Bench, and hath Sir *Iohn Lenthall* Warrant.)

3 Whereby hee vvvas apprehended, and carried prisoner to *Durham*, one of vvvhich kept him nine days in *Norumberland* and *Newastle*.

4 Where he remayned above six vveeks.

5 And from thence brought him prisoner to *London* to the said Secretary.

6 Who remanded him prisoner to the Kings Bench, so that he vvvas prisoner from the first of *January* to the last of *February*, both to the Kings Bench, and the high Commission.

7 And two days after by the said Secretaries command, he was taken out of his chamber *in the Rules*, and put into the common prison, where he remayned about one moneth, and 16 weeks after close prisoner in his own chamber.

8 Upon pretence that he had been in *Scotland*, preaching and instigating the *Scots* against Episcopall Government.

9 Upon vvvhich his said Imprisonment, by the B. of *Durham*, and High Commissioners Warrants, and Secretary *Windsbans* two Letters, by vvvhich he was sent for in *Jan.* the midst of Winter being 70 yeers old and sickly, to be brought up in safe custody, to answer at the Councell Table, for (I cannot tell vvhat) dis-services, and preaching seditious Sermons in *Scotland*, vvvhich was most false, hee never preached in *Scotland* nor *England* since hee preached against superstitious vanities, 27 of *July* 1628, since vvvhich time hee hath beene alwayes suspended from coming to Church, excommunicated, and imprisoned till

till this Parliament 1641, he was sent for, I say, to answer at the Councell Table, and brought to London with the perill of his life: yet hee could never get any release or examination: though severall times he petitioned the said Secretary, Archbishop *Laud*, and his Majesty. All in vain, they knew they had nothing to lay to his charge, therefore they never meant to call him to answer: but they kept him in prison, and the Secretary, and his servant *Read* also commaned Sir *Iohn Lenthall* to keep him safely, and to give him no liberty from Dec. 1639, till Aug. 3. 1641, on which day all Sentences were cancelled by this Parliament: both Houses concurring with unanimous consent, and he (*Peter Smart*) restored to his liberty, and to the Church and to his Living, with the mean profits therof (though he reape no benefit thereby) without recantation, absolution, new Induction or Instaulation, which could not have bin done, if he had bin justly censured, and condemned lawfully.

His imprisonment was proved by the testimony of Sir *Iohn Lenthall* Marshall of the Kings bench, who answered being sent for by the Parliament that he kept him in prison *arbitraria custodiâ* straightly, by the expresse command of Secretary *Windebanck*: Bp. *Morton* being asked why he committed him in the North, answered that he was commanded so to doe by two Letters from Secretary *Windibank*, Secretary *Windibank* being demanded why he wrote those Letters, answered, that he did by the appointment of the Councell Table, and soon after ran away out of the Realme.

*Thomas burwell* the Bishops Chancellor denyeth, that in July 1638 he signed any Warrant, no body saith he did so in July, for it was signed by the Bishop, and *Thomas Burwell*, and *Wil. Jones*, the first of January, 1638 to apprehend Mr. *Smart*. (2) If at any other time he signed any Warrant, it was done in obedience to his Maiesties command, (3) By whose especiall command he beleeves, Secretary *Windebanck* did write.

(4)

James

( 4 ) Two letters to the Bishop of *Durham*. ( 5 ) To send Mr. *Smart* forthwith to the Conncell Table. ( 6 ) To answer the preaching of certain seditious Sermons. ( 7 ) and beleeves that upon the receipt of the first letter, the Bishop sent to Mr. *Smart* who repaired to *Durham* the pursuivant *Frisdall*, fetcht him in a coach out of *Northumberland*, where he had been kept by *Rob. Misford* his fellow pursuivant nine dayes. ( 8 ) Where he remained a while for want of money ( five or six weekes ) ( 9 ) Wherewith the Bishop being acquainted lent him 50 li. ( very false, he lent him not one penny , but kept him in the custody of two Pursuivants, where he made him spend above 20 li. in January and February, not suffering him to lie, or to goe one meale to his daughters house, an Aldermans wife in *Dnrham*, thongh 2000 li. bond was offered.)

( 10 ) Upon the Bishops receipt of the second letter from Secretary *Windebank*, Master *Smart* provided a horselitter and came to *London*. The truth is, that upon the receipt of the second letter the Bishop was in a rage against Mr. *Smart*, he said that if he would not provide to go to *London*, but put him to charges in carrying him thither, he would put him in a ship and send him by sea, and presently bad one of his men borrow an horselitter to carry him to the sea side ; a man above 70 years old, very sickly. and never on the sea in his life , to send him in the midst of winter to save charges , it was a very barbarous speech of him, who being commanded by the King to examine what the Dean and Prebends were indebted to M. *Smart*, and to cause them to pay it, without any examination, he took zheir part, and said they ought him not a peny , not one peny : whereas they ought him many thousand pounds, as are proved by this Parliament , and shall be proved more particularly, when a judgment can be gotten, and execution.

10 Master *Burwell* saith , that upon the receipt of the second  
Let-



Letter Master *Smart* provided an Horf-litter : it is true, but that Litter could not be carried on horsback, nor men be gotten to go on foot by it 200 miles in the deep Winter, so that hee was compelled to buy a cart with foure wheels, drawne with three horses on which the Litter was placed, guided and drawne by two men, so that it cost him above 50 pounds, his Imprisonment, by the Bishops Warrant, and his conveyance to *London* by two Keepers bound by the Bishops in 200 pound bond, to deliver their prisoner to Secretary *Windebanke*, which was done the last day of *February*, so long was he prisoner in many places from the first of *January*, even two whole moneths.

11. Yet in his answer to the impeachment, *Tho. Burwell* denyeth, the pretended Warrant was ever put in execution, or that Mr. *Smart* was thereby apprehended or imprisoned, a most impudent denyall, the warrant was served upon him by two pursuivants, one of them kept him in Northumberland nine dayes, the other fetcheth him thence to *Durham*, and keeps him in his house, not suffering him to go to any other house in *Durham*, for the space of nine weekes, and yet he was no prisoner, and he termeth it a pretended warrant.

*Robert King* upon his oath saith, that he went to see M. *Smart* in the custody of *William Frisall* pu suevant: to the high Commission where he found him so sick that he feared hee would have dyed there. And hee heard the said *Frisall* say divers times, that when he was brought upon his oath he would shew that warrant from the Bishop of *Durham*, and other commissions which should free him concerning the attachment of Mr. *Smart*.